

AMENDMENTS TO THE DRAWINGS

Attached are substitute drawings that include changes to Figs. 1-13. In the substitute drawings, clearer images of the previously presented drawings are provided. Additionally, the central axis, hinge axis and reference axis are noted in Fig. 2 as requested by the Examiner.

Attachments: Replacement Sheets

REMARKS

In the Office Action of May 30, 2008, the Examiner objected to the drawings because they fail to show various axes as described in the specification and because they contain heavy shading making them unclear. Fig. 2 has been amended to provide the central axis of the hinge strut, hinge axis and reference axis. Figs. 1 and 3-13 have been replaced to provide clearer drawings. The drawings were also objected to because reference character “30” is used to designate both hinge struts and spring struts. The specification has been amended at paragraph 0057 to amend the recitation from “hinge strut 30” to “spring strut 30.” Paragraph 0057 has also been amended to include a description of the hinge axis, the central axis of the hinge strut and the reference axis as described in paragraphs 0018-0021 and as shown in amended Fig. 2.

In the outstanding Office Action, claims 1-15 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter of the invention. Claim 1 has been amended to more precisely provide the reference points for the central axis of the hinge strut, the hinge axis and the reference axis and how these axes relate to the structure recited in the claims. Support for the amendment may be found in the claims as originally filed as well as paragraphs 0018-0021 and 0057-0060. The amendment of claim 1 eliminates any ambiguities that may have been present. Amendments have also been made to claims 5, 10, 11 and 16 to eliminate minor grammatical errors, to simplify claim language or to eliminate the possibility of there being a lack of proper antecedent basis for claim elements. Withdrawal of the rejection under 35 U.S.C. § 112, second paragraph, is respectfully requested.

Claims 1-6 and 9-16 stand rejected under 35 U.S.C. § 102(e), as anticipated by US Pat. No. 6,562,065 to Shanley (hereinafter “Shanley”). To anticipate a claim, a reference must teach all elements of the claim (MPEP § 2131). However, the claimed invention is distinguishable over that of Shanley. If structure 28 of Shanley is considered a hinge strut and structure 32 is considered a spring strut, as indicated in the Office Action, Shanley provides no indication that the “spring strut” is deflected at all, much less “initially resiliently deflected *transversely* to the expansion direction” as claimed, nor is there any teaching or suggestion of

folding over of “hinge struts” 32. The portion of Shanley indicated in the Office Action as providing this element, column 6, lines 40-41, and preceeding portions which provide proper context to the cited section, merely provides for minimization change in hinge curvature. No reference is made to the folding over of the hinge struts as recited in claim 1. Furthermore, Shanley indicates an entirely different mode of action than the claimed bearing structure. Shanley provides, “The net result of inserting ductile hinges 32 and increasing strut width is that the struts 28 no longer act as flexible leaf springs, but *act as essentially rigid beams* between the ductile hinges. “ (Column 6, lines 51-54, emphasis added.) Therefore, the rigid struts 28 of Shanley do not fold over or spring back as recited in claim 1. In fact, they can not be said to deflect at all because they are indicated to be “essentially rigid.” Additionally, Shanley provides no teaching or suggestion of any stabilization of both the compressed condition and the expanded condition of the stent by a spring action of the spring struts. In this way, it is apparent that Shanley does not teach or suggest all the elements of claim 1, and that claims 1-6 and 9-16 patentably distinguish over Shanley. Withdrawal of the rejection of these claims under 35 U.S.C. § 102(e) is respectfully requested.

Claims 7 and 8 stand rejected under 35 U.S.C. § 103(a), as being unpatentable over Shanley in view of US Pat. No 6,254,632 to Wu et al (hereinafter “Wu”). Wu is relied upon for the teaching of the use of a magnesium alloy or a bioresorbable material. However, as with Shanley, Wu also provides no teaching or suggestion of folding over of any hinge struts as recited in the claims. Therefore, the cited references do not teach or suggest all of the limitations of claim 1, or of claims 2-16, which depend from and include all of the limitations of claim 1, and claims 1-16 patentably distinguish over the cited prior art. Withdrawal of the rejection under 35 U.S.C. § 103(a) is respectfully requested.

The outstanding Office action was mailed on 30 May 2008. The Examiner set a shortened statutory period for reply of 3 months from the mailing date. Therefore, a petition for an extension of time (one-month) is hereby made with this response. Additionally, the Applicants hereby make a conditional petition for any additional extension of time for response in the event that such a petition is required. The Commissioner is authorized to charge any fee

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or to credit any overpayment associated with the filing of this paper to Deposit Account 15-0450.

Respectfully submitted,

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